

JUL 22 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

D. EARL ROUSH,

Plaintiff - Appellant,

v.

REBECCA LEMKE, Police Support
Officer; et al.,

Defendants - Appellees.

No. 07-35965

D.C. No. CV-06-01055-TSZ

MEMORANDUM *

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Submitted July 14, 2008 **

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

Appellant's motion to file the supplemental response received on June 25,
2008 is granted. Appellees' motion to strike the supplemental response is denied.

The Clerk shall file the response.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

A review of the record and the response to this court's order to show cause indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). The district court did not err in granting summary judgment. *See Universal Health Servs., Inc. v. Thompson*, 363 F.3d 1013, 1019 (9th Cir. 2004) (stating standard of review for summary judgment).

Accordingly, we summarily affirm the district court's judgment.

Appellees' motion for fees and costs incurred in moving to strike the supplemental response is denied.

AFFIRMED.